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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII  
726 MINNESOTA AVENUE  
KANSAS CITY, KANSAS 66101

MAY 26 1988

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

OFFICE OF  
THE REGIONAL ADMINISTRATOR

Mr. Edward G. Jefferson  
Chairman  
E.I. DuPont DeNemours & Company  
1007 Market Street  
Wilmington, DE 19898

Re: Cherokee County Site  
Cherokee County, Kansas

Dear Mr. Jefferson:

The United States Environmental Protection Agency (EPA) has spent and is considering spending public funds to investigate and take corrective action for the control of releases or threatened releases of hazardous substances at the above-referenced site. The site consists of the lead and zinc mining areas in southeastern Cherokee County, Kansas, and includes the towns of Treece, Baxter Springs, Galena, and Crestline.

The response action will be taken pursuant to Section 104 and other provisions of the Comprehensive Environmental, Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, 42 U.S.C. § 9601 et seq., unless EPA determines that such actions will be done properly by a responsible party. Under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and other laws, responsible parties may be liable for any costs of such response actions at the site incurred by the United States Government or a State not inconsistent with the National Contingency Plan. Such costs may include, but are not limited to, expenditures for investigation, planning, clean up of the sites and enforcement. By this letter, therefore, EPA intends to both notify E.I. DuPont De Nemours & Company (herein DuPont) of its potential liability with regard to this matter and to encourage DuPont as a potentially responsible party, to undertake the aforementioned response activities.



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SUPERFUND RECORDS



Based on County and EPA records and on and off site investigations, EPA has information indicating that DuPont may be a responsible party. More specifically, the Agency has reason to believe that, through the Grasselli Chemical Company, DuPont operated mining facilities within the site boundaries. The EPA has determined that a release of hazardous substances [as defined by Section 101(14) of CERCLA] has occurred as a result of the mining activities. At the present time, heavy metals and acidic waters are contaminating the ground water and/or surface water.

The Agency will upon request, discuss additional information with DuPont and will provide additional information on the nature and extent of the release.

The EPA conducted a site-wide remedial investigation at the Cherokee County Site which demonstrated that heavy metals are contaminating the groundwater and surface water throughout the site. EPA also conducted a removal action at the Galena Subsite in response to the identification of numerous domestic drinking water wells contaminated with heavy metals exceeding Maximum Contamination Limits established by the Safe Drinking Water Act.

The Galena Subsite, one of six subsites, was divided into two operable units (OU) for feasibility studies to determine appropriate remedial action at the subsite; OU No.1, Alternative Water Supply (AWS) and OU No. 2, Groundwater/Surface Water remediation (GW/SW). The AWS feasibility study is complete and the EPA's Record of Decision recommending a permanent public water supply distribution system be implemented at the subsite was issued on December 21, 1987. The GW/SW feasibility study is also complete. The Record of Decision is expected to be issued in May 1988.

In addition to the above studies and decisions, other corrective measures may be necessary to protect public health, welfare or the environment at the Cherokee County Site.

Under the provisions of Section 107(a) of CERCLA, where the Agency uses public funds to effectuate the clean up of the hazardous substances, DuPont may be liable for all costs associated with the remedial action and all other necessary costs incurred in cleaning up the site. The Agency has initiated procedures for implementing further response actions at the Cherokee County site but may consider an immediate unequivocal offer by DuPont to undertake the necessary corrective



response actions as approved by EPA, which are not inconsistent with the National Contingency Plan. Alternatively, if DuPont does not wish to perform response actions, it may participate in the Fund-financed actions where such participation can occur without undue delay or interference with EPA remedial activities.

EPA may use procedures for a negotiated settlement according to Section 122(e) of CERCLA, Special Notice Procedures, prior to conducting further response activities at the Cherokee County Site. These procedures are used when EPA determines that formal negotiations will facilitate settlement and expedite remedial action.

DuPont should notify EPA verbally within ten (10) working days of receipt of this letter and in writing within fourteen (14) working days of receipt of this letter, of the nature and extent of the actions it may be willing to undertake and whether it wishes to participate in the response actions to be taken at the site. The letter should indicate the name, address and telephone number of the appropriate party for further contact. If EPA does not receive the requested verbal and written responses, EPA will assume that DuPont declines to undertake the necessary response actions at the site and EPA will proceed with any necessary actions.

DuPont's verbal response should be to E. Jane Kloeckner, Assistant Regional Counsel, at (913) 236-2809 and its letter to her attention at:

Office of Regional Counsel  
U.S. Environmental Protection Agency  
726 Minnesota Avenue  
Kansas City, Kansas 66101

The EPA would like to encourage good faith negotiations between DuPont and the Agency as well as between DuPont and other parties potentially responsible for the contamination at the site. If DuPont is not already aware of the names of the other potentially responsible parties, they may be revealed upon request so that organization of the potentially responsible parties will be possible.

The factual and legal discussions contained in this letter are intended solely for notification and edification purposes. They are not intended to be, are not, and may not be relied upon as a final Agency position on any matter set forth herein, and do not limit the legal or administrative actions the Agency may take with respect to this problem.



Due to the seriousness of the problem at the site and the attendant legal ramifications, the Agency strongly encourages DuPont to submit verbal and written responses within the time frames specified herein. We believe that DuPont should give this letter its immediate attention.

Very truly yours,

Morris Kay  
Regional Administrator

cc: Stanley Grant  
Kansas Department of Health and Environment  
Building 740, Forbes Field  
Topeka, Kansas 66620

bcc: Gene Lucero, OWPE (WH-527)  
John Quander, OWPE (WH-527)  
Kate Boure, OWPE (WH-527)  
David Van Slyke, OECM (LE-1345)  
Alice Fuerst, SPFD  
Administrative Record (3 copies)

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